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                 UNITED STATES DISTRICT COURT
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                CENTRAL DISTRICT OF CALIFORNIA
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                          WESTERN DIVISION
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   JOSHUA SPENCER HILL,
                                    No. ED CV 12-02186-FMO (VBK)
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                  Petitioner,
                                    ORDER ACCEPTING FINDINGS AND
                                     RECOMMENDATIONS OF UNITED STATES
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                                     MAGISTRATE JUDGE
        v.
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   HOLLAND, et al.,
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                  Respondents.
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        Pursuant to 28 U.S.C. §636, the Court has reviewed the Petition
   for Writ of Habeas Corpus ("Petition"), the records and files herein,
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   and the Report and Recommendation of the United States Magistrate
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   Judge ("Report").
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IT IS ORDERED that: (1) the Court accepts the Findings and Recommendations of the Magistrate Judge, and (2) the Court declines to issue a Certificate of Appealability ("COA").

DATED: August 21, 2013

/s/ FERNANDO M. OLGUIN UNITED STATES DISTRICT JUDGE

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Under 28 U.S.C. §2253(c)(2), a Certificate of Appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." Here, the Court has accepted the Magistrate Judge's finding and conclusion that the Court lacks jurisdiction and the Petition is time-barred. Thus, the Court's determination of whether a Certificate of Appealability should issue here is governed by the Supreme Court's decision in Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595 (2000), where the Supreme Court held "[w]hen the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." As the Supreme Court further explained:

"Section 2253 mandates that both showings be made before the court of appeals may entertain the appeal. Each component of the § 2253(c) showing is part of a threshold inquiry, and a court may find that it can dispose of the application in a fair and prompt manner if it proceeds first to resolve the issue whose answer is more apparent from the record and arguments." <u>Id</u>. at 485.

Here, the Court finds that Petitioner has failed to make the requisite showing that "jurists of reason would find it debatable whether the district court was correct in its procedural ruling."